

REMARKS

Claims 23-41, 43-46, and 48-55 remain in the application including independent claims 23, 41, and 48. Claims 42, 47, and 56 have been cancelled. New claims 57-58 have been added. Claims 41 and 43-46 have been allowed. Claims 29-31, 33-35, 49, and 50-55 are indicated as allowable if rewritten in independent form.

The Examiner has indicated that an incomplete copy of the Roe reference (US 3161083) was attached to Applicant's information disclosure statement. A complete copy is attached herewith in an accompanying information disclosure statement.

Applicant also objects to the examiner's characterization of Applicant's information disclosure statement of January 23, 2002 as being "inaccurate" and "misleading" with regard to reference FR 2507550 (Van Dest). Applicant's representative had no intention of misleading the examiner. Applicant's representative became aware of the reference as a result of the European search report from the corresponding European application. The European examiner cited Van Dest as being only relevant as technological background. Further, Applicant's representative reviewed the figures of the Van Dest reference and believed that the reference was of no particular relevance, as none of the figures showed the shaft and gear configuration claimed by Applicant. Thus, Applicant respectfully traverses examiner's assertion that Van Dest anticipates eight claims of the subject application. However, certainly, the examiner's assertions against Applicant's representative are inaccurate and unfair. A specific retraction is in order.

While Applicant's representative was unable to find an English equivalent for Van Dest, Applicant's representative was recently able to find an English abstract for the Van Dest reference.

A copy of this abstract is being submitted along with the complete copy of Roe. The abstract for Van Dest discusses a movable platform for a load handling vehicle. The English abstract is insufficient to fully understand the teachings of the Van Dest reference, especially in view of the examiner's anticipation rejections under 35 U.S.C. 102(b).

If the 35 U.S.C. 102(b) rejections are upheld, Applicant respectfully requests that the examiner obtain a translation of Van Dest to support the examiner's rejections. Ex parte Gavin, 62 USPQ2d 1680 (U.S. Patent and Trademark Office Board of Patent Appeals and Interferences, 2001), [“obtaining translations is the responsibility of the examiner. A review by the examiner and applicant of translations of the prior art relied upon in support of the examiner’s rejection may supply additional relevant evidence on issues of anticipation and obviousness . . . and may eliminate the need for an appeal.”] Id. at 1684.

Claims 23-28, 38, and 39 stand rejected under 35 U.S.C. 102(b) as being anticipated by FR 2507550 to Van Dest et al. (Van Dest). The text of the Van Dest reference is entirely in French so it is difficult to determine what exactly the Van Dest reference teaches, which is why Applicant is requesting that the reference be translated into English. The English abstract of the Van Dest reference describes a movable platform that has two co-axial wheels and with planetary gear trains, which appears to be very different than Applicant’s invention.

Applicant asserts that the examiner’s interpretation of Van Dest cannot be fully supported without a complete translation of the reference. However, assuming that the examiner’s interpretation of Van Dest is accurate, Applicant responds with the following arguments and

reserves the right to modify and/or make additional arguments in light of a review of the complete English translation of Van Dest.

In order to anticipate a claim, the cited reference must include each and every feature of the claim. Van Dest does not disclose each and every feature of claim 23. Claim 23 includes the feature of first and second driving axle shafts that drive first and second wheel hubs about a lateral axis of rotation. Van Dest does not disclose this feature. Further, the examiner does not indicate in examiner's arguments where the driving axle shafts are shown in Van Dest.

While it is well settled that terms in a claim are to be given their broadest reasonable interpretation, this interpretation must be consistent with the specification, with claim language being read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Bond, 910 F. 2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). There is simply no equivalent structure in Van Dest that shows a pair of driving axle shafts as set forth in claim 23 and as defined in Applicant's specification. This is because Van Dest is directed toward a small lifting wagon with a rotatable platform, which is a very different type of vehicle than the vehicle to which Applicant's invention is directed. It appears from the drawings in Van Dest that the vehicle does not have any structural element that can be interpreted to be a driving axle shaft as set forth in claim 23. It would be improper to expand the meaning of Applicant's claim term "driving axle shaft" to be cover by a component in Van Dest because one of ordinary skill in the art would instantly recognize that Van Dest does not have axle shafts as claimed by Applicant.

Further several features dependent claims 24-28, 38, and 39 are also not anticipated by Van Dest. For example, claim 25 includes the feature of first and second gearboxes that house the first

and second gear sets and which are mounted to the first and second motors, respectively, where the first and second planetary gear sets are also incorporated into the gearboxes, respectively. This is certainly not shown in Van Dest. The examiner argues that Van Dest shows both the planetary gear set being incorporated into a wheel hub and the planetary gear set being incorporated into a gearbox but cites the same structure for both different embodiments. It is clear from Applicant's specification and claims that Applicant's invention includes two very different embodiments for housing the planetary gear set. The figures in Van Dest seem to indicate only a single embodiment of the invention, thus it is difficult to see how Van Dest could be interpreted to cover both of Applicant's embodiments. None of the figures in Van Dest show a gearbox structure that houses both a first gear set and a first planetary gear set and which is also mounted to the first motor as is set forth in claim 25.

Also Van Dest also does not anticipate claim 27. Claim 27 includes the feature of the first gear set including a first pinion gear in driving engagement with a first ring gear mounted for rotation with the first wheel hub and wherein the first planetary gear includes a first sun gear mounted for rotation with the first ring gear. The Van Dest reference does not have a first gear set that includes a ring and pinion gear as claimed by Applicant. Further Van Dest does not include a sun gear that rotates with the ring gear of the first gear set as claimed by Applicant.

Claims 23, 25, 26, 32, 36, 37, and 40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Roe (US 3161083). Claim 23 includes the combination of an electric motor that drives a first gear set, which in turn drives a planetary gear set. Roe teaches a different

configuration where a pair of motors drives a planetary gear set, which in turn drives a ring and pinion gear set. Thus, the configuration of Roe is actually the reverse of that claimed by Applicant.

Claim 25 includes the feature of gearboxes for housing the first and second gear sets where the gearboxes are mounted to the motors. This is also not shown in Roe. The examiner argues that Roe shows gear boxes 30R, 30L, however, 30R and 30L are the right and left planetary gear sets themselves, not gearboxes that house the planetary gear sets.

Claim 26 includes the feature of the first gear set including a first ring and pinion. As described above, the “first gear set” in Roe is the planetary gear set, not the ring and pinion gear set.

Claim 37 includes the feature of one motor extending out forwardly from the lateral axis of rotation and the other motor extending out rearwardly from the lateral axis of rotation. As shown in Figure 3 of Roe, all motors are positioned on the same side of the lateral axis of rotation.

Further, Applicant traverses examiner’s assertion that the features not shown in Roe are “very old and well known,” and respectfully requests that the Examiner cite a reference in support of examiner’s position. See MPEP 2144.03.

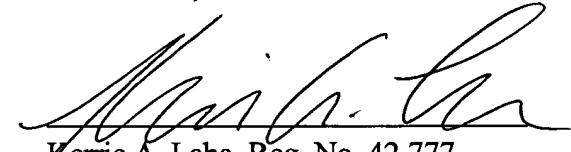
Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Roe in view of Van Dest. As discussed above, neither Roe nor Van Dest disclose, suggest, or teach Applicant’s invention as set forth in the claims.

Claim 48 stands rejected as being unpatentable over Austin in view of Quartullo and further in view of Van Dest. There is no motivation or suggestion to modify Austin and Quartullo with the teachings of Van Dest. The benefit of the planetary configuration in Van Dest is for a small vehicle used to for moving and lifting loads in warehouses, dock areas, etc., which is very different than the

vehicle applications in Austin and Quartullo. There is no motivation or suggestion to modify Austin with Quartullo and Van Dest other than that found in Applicant's own disclosure, which cannot be used as motivation for modification.

For the reasons set forth above, all claims should be allowed. An indication of such is requested. As claims have been cancelled in previous amendments, Applicant believes that no additional claim fees are due, however, if additional fees are required the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds.

Respectfully submitted,
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CERTIFICATE OF MAIL

I hereby certify that the enclosed Amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Assistant Commissioner of Patents, Washington D.C. 20231 on this 21st day of November, 2002.



Laura Combs